

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN ALEMOH MOMOH,

Defendant.

) INDICTMENT CR 11-127 PAM/JJG
)
) (18 U.S.C. § 982)
) (18 U.S.C. § 1028A)
) (18 U.S.C. § 1347)
) (21 U.S.C. § 853)
)
)
)

At all times material to this Indictment:

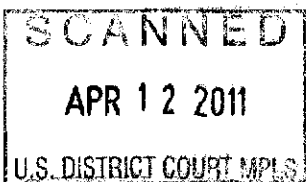
INTRODUCTION

The Medicaid Program

1. Under the Social Security Act, the United States shares with the fifty states the cost of medical services provided to low-income families with dependent children, and to aged, blind, and disabled individuals whose income and resources are insufficient to meet the cost of medical services.

2. Medicaid, created pursuant to the Social Security Act, is a federally-assisted grant program for the states. Medicaid enables the states to provide medical assistance and related services to needy individuals. The United States and the states jointly finance the Medicaid program, and the various states administer the program. Medicaid is a health care benefit program within the meaning of Title 18, United States Code, Section 24(b).

3. With respect to the financing of Medicaid, each state directly pays the providers of Medicaid services, with the state obtaining the federal share of the payment from accounts drawn on



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funds of the United States Treasury. The federal share of each state's Medicaid program varies by individual states. The federal funding share in Minnesota is one-half, and the state funding share is one-half. Through this funding and otherwise, Medicaid is a program that affects interstate commerce.

4. With respect to the administration of Medicaid, each state, within broad federal rules, decides who is eligible for Medicaid, the services covered, payment levels for services, and administrative and operational procedures. The Minnesota Department of Human Services ("DHS") administers Minnesota's Medicaid program, which is commonly referred to as "Minnesota Medicaid" or "Medical Assistance."

Minnesota Medicaid

5. Minnesota Medicaid reimburses health care providers ("providers"), including home care providers, for covered services provided to Minnesota Medicaid recipients ("recipients"). Minnesota Medicaid determines what types of services are covered and therefore reimbursable, and at what rate the covered service will be reimbursed.

6. Providers seeking reimbursement for services rendered to Minnesota Medicaid recipients are required to submit claims to DHS subject to terms and conditions agreed to by the provider. DHS, after processing a claim, pays the health care provider with Medicaid funds.

7. Providers, including home care agencies, enrolled in the Minnesota Medicaid program agree to certain terms and conditions of participation, including:

A. To maintain records that fully disclose the extent of services provided to individuals under the program;

B. To comply with all federal and state statutes and rules relating to the delivery of services to individuals and to the submission of claims for such services;

C. To submit claims only for services that are medically necessary; and

D. To assume full responsibility for the accuracy of claims submitted to DHS.

Personal Care Assistance Services within Minnesota Medicaid

8. Some recipients require assistance with personal care necessary to maintain the recipient in his or her own residence. Such services are commonly called personal care assistance services. Personal care assistance services covered by the Minnesota Medicaid program may include, depending upon the needs of the recipient, bathing, hygiene, dressing, medication reminders, food preparation and clean-up, laundry, weekly grocery shopping, and light housekeeping.

9. Personal care assistance services are provided by a personal care assistant, referred to as a "PCA." PCAs are employed by Personal Care Provider Organizations ("PCPOs") that are enrolled

in Minnesota Medicaid. PCPOs that employ PCAs to provide personal care assistance services to Minnesota Medicaid recipients are referred to herein as "home care agencies."

10. In addition to the requirements applicable to all Minnesota Medicaid providers, home care agencies employing PCAs are required to follow rules designed to ensure honest billing of PCA services actually provided. For example, home care agencies are required to:

A. Obtain and maintain a Physician's Statement of Need for each recipient to whom PCA services are to be provided. The Statement of Need documents that PCA assistance is medically necessary for each recipient to whom services are to be provided.

B. Ensure that each PCA providing PCA services passes a Background Study, which is designed to ensure, among other things, that individuals working with a child or vulnerable adult have not been convicted of a crime or maltreated (either abused or neglected) a child or vulnerable adult.

C. Receive and maintain time sheet documentation from PCAs reflecting date of service, activities of care, the name and signature of the PCA, the name and signature of the recipient or responsible party, and the start and stop times worked.

D. Identify, using unique Medicaid recipient and PCA provider numbers, the recipient and corresponding PCA for each claim submitted to DHS. Identification of recipients and PCAs

allows confirmation of who is providing services to the recipient and that billed services have actually been provided by that PCA.

E. Bill PCA services provided simultaneously to more than one Medicaid recipient at a "shared care" reimbursement rate, which is lower than the reimbursement rate applicable to services provided on a one-to-one basis.

Defendant's Home Care Agency: Hopecare Services, Inc.

11. Hopecare Services, Inc. ("HopeCare") was a Minnesota home care agency operating from an office located in Brooklyn Park, Minnesota. HopeCare's primary business was the provision of PCA services to Minnesota Medicaid recipients through PCAs employed by HopeCare.

12. Defendant JOHN ALEMOH MOMOH ("MOMOH") was the incorporator and owner of HopeCare.

13. MOMOH signed in October 2003 Provider Enrollment forms for HopeCare stating his agreement to abide by Minnesota Medicaid's terms and conditions. Subject to MOMOH's agreement to those terms and conditions, HopeCare was enrolled as a PCPO on November 30, 2003.

MOMOH Repeatedly Advised of His False Billing Practices

14. DHS' Surveillance and Integrity Review Section ("SIRS") conducts audits and investigations of home care agencies to detect and prevent fraud. In March 2007, SIRS opened an investigation into the billing practices of HopeCare based upon a report from

Medicaid recipient K.B., an adult female whose full name is known to the grand jury, that HopeCare billed Minnesota Medicaid for more service than was actually provided.

15. SIRS conducted an investigation into K.B.'s report, including, but not limited to, review of PCA time sheets that should have documented the PCA hours that MOMOH had billed to Minnesota Medicaid. SIRS concluded that MOMOH was responsible for false billing of Minnesota Medicaid.

16. As a result, SIRS issued a written Notice of Agency Action to MOMOH in May 2007. The Notice of Agency Action advised MOMOH that repayment was being sought in connection with services billed to Minnesota Medicaid by HopeCare for recipient K.B. The Notice of Agency Action advised MOMOH that repayment was sought because:

A. The hours billed did not match the hours documented on time sheets.

B. The time sheets in MOMOH's possession did not match the original time sheets retained by K.B.

C. Actual hours worked by the PCA were not indicated on the time sheets, rather time sheets only indicated total hours worked for the day;

D. The hours were changed on the time sheets after they were faxed to HopeCare.

E. Time sheets did not include client signatures;

F. The PCA listed as the treating provider was not the PCA performing services.

17. In addition to the written notice, SIRS personnel met personally with MOMOH on May 11, 2007. SIRS personnel reinforced, among other things, that MOMOH was to bill for services only after they have been provided, and to bill only for services that have actually been provided and documented on time sheets, rather than billing based on the maximum authorized number of units on the service agreement.

18. Pursuant to the Notice of Agency Action, MOMOH repaid the amount sought after by SIRS for the billing practices evident in the K.B. matter.

19. Following MOMOH's repayment of unsupported claims in the K.B. matter, SIRS received additional complaints about MOMOH's agency and, in August 2007, conducted an audit of HopeCare. SIRS found that, even after the May 2007 advisories, MOMOH had continued to bill Minnesota Medicaid for unsupported claims.

20. MOMOH continued to defraud Medicaid after the events summarized above. As late as February 2008, a letter issued on HopeCare letterhead acknowledged examples of fraudulent billing practices. The letter stated that "[i]n the past we had allowed our providers to submit time sheets that did not have the Client's signature and/or that were partially complete. At the request of the client we as the provider provided services to clients whose

doctor's did not complete the state required Physician Statement of Need Form. At the request of the pca we also allowed providers to work without mantoux, provider numbers and background clearance."

COUNTS 1-23
(Health Care Fraud)

21. The grand jury re-alleges paragraphs 1 through 20 of this indictment and incorporates them by reference as if set forth in full herein.

22. From in or about May 2007 to in or about March 2008, in the State and District of Minnesota, the defendant,

JOHN ALEMOH MOMOH,

did knowingly and willfully execute and attempt to execute a scheme and artifice to defraud Medicaid, a health care benefit program, and to obtain over \$400,000 in money and funds owned by and under the custody and control of Medicaid, by means of materially false and fraudulent pretenses, representations and promises, in connection with the delivery of and payment for health care benefits, items and services.

SCHEME TO DEFRAUD

It was part of the scheme and artifice that, among other things:

23. It was a part of the scheme to defraud that MOMOH submitted false claims billing Minnesota Medicaid for PCA services, including, but not limited to, claims that were false as to the hours of service provided, false as to the PCA purportedly

providing service, and false as to whether care had been provided on a one-to-one basis.

24. It was a further part of the scheme to defraud that MOMOH submitted claims billing Minnesota Medicaid for PCA services provided by an individual who was disqualified as a PCA and therefore not authorized to provide PCA services.

25. It was a further part of the scheme to defraud that MOMOH submitted claims billing Minnesota Medicaid for PCA services provided to an individual for whom a physician had stated services were not medically necessary.

EXECUTIONS OF SCHEME

26. On or about the dates set forth below, among others, the defendant did knowingly execute and attempt to execute the above-described scheme to defraud by causing the below-listed claims for PCA services to be submitted for payment to the Minnesota Medicaid program:

Count	Date Claim Submitted	Dates of Service Identified on Claim	Initials of Medicaid Recipient Identified on Claim	Amount of claim
1	7/19/2007	7/1/2007 - 7/19/2007	G.T.	\$967.20
2	7/19/2007	7/1/2007 - 7/19/2007	R.L.	\$1029.60
3	7/19/2007	7/1/2007 - 7/19/2007	N.J.	\$1185.60
4	8/20/2007	8/1/2007 - 8/16/2007	N.J.	\$624.00
5	1/17/2008	1/1/2008 - 1/15/2008	S.E.	\$597.00

Count	Date Claim Submitted	Dates of Service Identified on Claim	Initials of Medicaid Recipient Identified on Claim	Amount of claim
6	1/16/2008	1/1/2008 - 1/14/2008	A.Y.	\$780.08
7	1/30/2008	1/16/2008 - 1/30/2008	A.Y.	\$947.24
8	5/24/2007	5/11/2007 - 5/24/2007	G.C-H.	\$4225.29
9	7/5/2007	6/22/2007 - 6/30/2007	P.J.	\$2335.53
10	8/30/2007	8/17/2007 - 8/30/2007	M.B.	\$163.80
11	11/20/2007	11/1/2007 - 11/4/2007	D.T.	\$573.12
12	8/16/2007	8/1/2007 - 8/16/2007	G.T.	\$499.20
13	1/3/2008	12/21/2007 - 12/31/2007	G.C-H.	\$2057.66
14	6/7/2007	6/1/2007 - 6/7/2007	R.H.	\$1211.58
15	11/20/2007	11/8/2007 - 11/20/2007	R.H.	\$983.06
16	8/30/2007	6/26/2007 - 6/30/2007	M.J.	\$156.00
17	10/25/2007	10/12/2007 - 10/25/2007	M.J.	\$445.76
18	8/2/2007	6/1/2007 - 6/30/2007	C.L.	\$1907.10
19	1/31/2008	1/16/08 - 1/31/08	C.L.	\$1018.88
20	9/13/2007	7/26/2007 - 7/31/2007	C.O.	\$561.60
21	9/13/2007	7/26/2007 - 7/31/2007	J.O.	\$561.60
22	9/13/2007	9/1/2007 - 9/13/2007	C.O.	\$1216.80
23	9/13/2007	9/1/2007 - 9/13/2007	J.O.	\$1216.80

All in violation of Title 18, United States Code, Section 1347.

COUNTS 24-41

(Use of Another's Identity During and In Relation to Health Care Fraud)

27. The Grand Jury realleges and incorporates paragraphs 1 through 26 as if set forth in full herein.

28. A provider's submission of a claim to Minnesota Medicaid for reimbursement for PCA services provided to a Minnesota Medicaid recipient must include:

A. The unique Medicaid identification number of the Minnesota Medicaid recipient receiving the billed PCA services;

B. The unique provider number of the PCA providing the billed PCA services.

29. The recipient's Medicaid identification number and the PCA's provider number are each "means of identification" for purposes of Title 18, United States Code, Section 1028A.

30. On or about the dates set forth below, in the State and District of Minnesota, the defendant,

JOHN ALEMOH MOMOH,

did knowingly use, transfer, and possess, without lawful authority, the below-listed means of identification of another person, during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), to-wit: health care fraud, by submitting and causing to be submitted false Medicaid claims using the means of identification of Medicaid recipients and PCAs, as set forth below:

Count	Date Claim Submitted	During and in Relation To	Means of Identification
24	7/19/2007	Count 1	Medicaid Recipient number sufficient to identify G.T., namely xxxxx9069
25	7/19/2007	Count 1	PCA Number sufficient to identify L.J., namely xxxxx4000
26	7/19/2007	Count 2	Medicaid Recipient number sufficient to identify R.L., namely xxxxx0188
27	7/19/2007	Count 2	PCA number sufficient to identify M.S., namely xxxxx3800
28	7/19/2007	Count 3	Medicaid Recipient number sufficient to identify N.J., namely xxxxx0108
29	1/17/2008	Count 5	Medicaid Recipient number sufficient to identify S.E., namely xxxxx1832
30	1/16/2008	Count 6	Medicaid Recipient number sufficient to identify A.Y., namely xxxxx7287
31	1/16/2008	Count 6	PCA number sufficient to identify E.B., namely xxxxx8000
32	5/24/2007	Count 8	Medicaid Recipient number sufficient to identify G.C-H., namely xxxxx5754
33	8/20/2007	Count 10	Medicaid Recipient number sufficient to identify M.B., namely xxxxx0852

Count	Date Claim Submitted	During and in Relation To	Means of Identification
34	8/16/2007	Count 12	Medicaid Recipient number sufficient to identify G.T., namely xxxx9069
35	11/20/2007	Count 15	Medicaid Recipient number sufficient to identify R.H., namely xxxx1323
36	11/20/2007	Count 15	PCA number sufficient to identify K.D., namely xxxxx6700
37	8/30/2007	Count 16	Medicaid Recipient number sufficient to identify M.J., namely xxxx7608
38	8/2/2007	Count 18	Medicaid Recipient number sufficient to identify C.L., namely xxxx6006
39	9/13/2007	Count 20	Medicaid Recipient number sufficient to identify C.O., namely xxxx6132
40	9/13/2007	Count 21	Medicaid Recipient number sufficient to identify J.O., namely xxxx2770
41	9/13/2007	Count 21	PCA number sufficient to identify Y.P., namely xxxxx5000

All in violation of Title 18, United States Code, Section 1028A(a)(1).

FORFEITURE ALLEGATIONS

Counts 1 through 23 are hereby realleged for the purpose of alleging forfeitures pursuant to 18 U.S.C. § 982(a)(7). If convicted of any of Counts 1 through 23, the defendant shall forfeit to the United States all of his right, title, and interest in any and all property, real or personal, that constitutes or is derived from, directly or indirectly, the gross proceeds traceable to the commission of the offense.

If the property described above is unavailable for forfeiture, the United States intends to forfeit substitute property pursuant to 21 U.S.C. § 853(p) as incorporated by 18 U.S.C. § 982(b).

A TRUE BILL

UNITED STATES ATTORNEY

FOREPERSON